

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Robert Creighton,
Appellant,

v.

Warren County Board of Review,
Appellee.

ORDER

Docket No. 13-91-0479
Parcel No. 48-100-04-0090

On October 28, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Robert Creighton was self-represented. Warren County Assessor Brian Arnold is the designated representative for the Board of Review. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Robert Creighton is the owner of the property located at 1603 West 4th Avenue, Indianola, Iowa. The real estate was classified residential on the January 1, 2013 assessment, and valued at \$133,200, representing \$14,800 in land value and \$118,400 in dwelling value.

According to the property record card, the subject property is a brick one-story, single family residence with a total of 926 square feet of living area and a full, walkout basement with 850 square feet of living quality finish. The home also has two open porches and a 330 square-foot attached brick garage. The property was built in 1959. It is listed in normal condition, and of average quality (4) grade. The site is 0.194 acres.

Creighton protested to the Board of Review on the ground that the property is inequitably assessed under Iowa Code section 441.37(1)(a)(1). The Board of Review denied his claim.

Creighton then appealed to this Board re-asserting his claim and asserts the correct total value is \$115,000.

Creighton submitted a total of eight properties he considered comparable to his property to the Board of Review and to this Board. The record includes printouts for the four properties he submitted to the Board of Review. These four properties are located at 1602 W 5th Avenue, 1607 W 4th Avenue, 1509 W 3rd Avenue, and 1505 W 3rd Avenue. Similar to the subject property, all are one-story, brick homes built in 1959. The properties have above-grade living area ranging from 958 square feet to 1015 square feet compared to the subject's living area of 926 square feet.

Further, two of the properties recently sold. 1602 W 5th Avenue sold in March 2013 for \$116,000. In addition, 1505 W 3rd Avenue sold twice in February 2013. The record indicates it transferred on February 5th for \$85,000; and again on February 6th for \$85,000.

We note the subject property offers different amenities than these comparables, such as a walkout basement, fireplace, and additional basement finish. Because these properties are of similar square footage, age, and style, however, we find they are reasonable comparables. Nonetheless, we also find there are not enough facts known about the identified sales to determine if they were normal, arm's length transactions. Additionally, we note the sales occurred after the January 1, 2013, assessment date. An equity analysis typically compares *prior year sale prices* (2012 sales in this case) to the *current year's assessment* (2013 assessment) to determine the sales-ratio.

Upon appeal to this Board, Creighton provided another list of comparable properties, including four new addresses. These new properties are located at 1606 W 5th Avenue, 1601 W 4th Avenue, 1504 W 5th Avenue, and 1510 W 5th Avenue. Creighton identifies they are all one-story brick homes, and range in living area from 958 square feet to 1025 square feet. There is scant information in the record about these properties to determine if they are, in fact, comparable. Further, there is no reported sales of these properties.

Although Creighton provided eight properties he believes are comparable to his property, he has failed to establish the market value of the properties or the subject property to properly conduct a sales-ratio analysis to support his claim of inequity. Further, he does not assert the assessor applied assessment methods in a non-uniform manner to the subject property.

Lastly, Creighton asserts values in his area, the west Mccord division, have been “dropping dramatically for over a year now.” However, he did not submit any evidence to support this assertion.

The Board of Review provided four properties it considered comparable, which all sold in 2012. Similar to Creighton’s comparable properties, the Board of Review considered one-story brick homes, built between 1957 and 1960, with 958 square feet to 1302 square feet of living area. The properties have 2013 assessed values and 2012 sales prices as follows:

Address	2013 Assessed Value	2012 Sale Price	Sale Ratio
608 S O ST	\$130,300	\$135,000	0.97
1104 N D ST	\$120,300	\$130,000	0.93
800 N C ST	\$163,000	\$154,000	1.06
604 S O ST	\$137,600	\$148,000	0.93

A ratio under 1.00 indicates sale prices are higher than assessed values; whereas a ratio over 1.00 indicates the assessment is higher than a recent sale price or established market value. The four equity comparables indicate a sales-ratio range of 0.93 to 1.06, with a median of 0.95. This indicates the 2013 assessments of similar properties were roughly 95% of the fair market value.

Based on the foregoing, we find Creighton supplied insufficient evidence to demonstrate the subject property is inequitably assessed.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply.

Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the

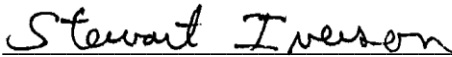
actual valuations of the similar and comparable properties, thus creating a discrimination.”

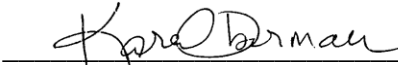
Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Creighton submitted eight properties, four of which we found are comparable to the subject property. He only provided sales data for two of the eight properties and we found that information was insufficient to determine if the sales were normal, arm’s length transactions. Additionally, these sales occurred after the January 1, 2013, assessment date. Creighton also failed to provide evidence of the subject property’s actual market value. This evidence is required in order to conduct a sales-ratio analysis under *Maxwell* and to determine if the subject property is assessed at a higher proportion of its actual value. Further, Creighton did not assert that the assessor applied an assessment method in a non-uniform manner to the subject property. Therefore, Creighton has failed to meet the evidentiary burden to succeed on his equity claim.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of Robert Creighton’s property of \$133,200, set by the Warren County Board of Review, is affirmed.

Dated this 22nd day of November, 2013.


Stewart Iverson, Presiding Officer


Karen Oberman, Board Member

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